

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JAMES MOORE,)
ID # 02045821,)
Petitioner,)
vs.) No. 3:17-CV-0205-D
)
LORIE DAVIS, Director,)
Texas Department of Criminal)
Justice, Correctional Institutions Division,)
Respondent.)

ORDER

After reviewing all relevant matters of record in this case, including the findings, conclusions, and recommendation of the United States Magistrate Judge, in accordance with 28 U.S.C. § 636(b)(1), the court is of the opinion that the findings and conclusions of the magistrate judge are correct, and they are adopted as the findings and conclusions of the court.

For the reasons stated in the findings, conclusions, and recommendation of the United States Magistrate Judge, Lorie Davis is substituted as the proper respondent in this case, and TDCJ is terminated as respondent. The petition for habeas corpus filed pursuant to 28 U.S.C. § 2254 is denied with prejudice.

Considering the record in this case and pursuant to Fed. R. App. P. 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation filed in this case in support of its finding that the petitioner has failed to show (1) that reasonable jurists would find this court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable

whether [this court] was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S.473, 484 (2000).

If petitioner files a notice of appeal,

- () petitioner may proceed *in forma pauperis* on appeal.
- (X) petitioner must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

SO ORDERED.

October 11, 2018.



SIDNEY A. FITZWATER
SENIOR JUDGE